

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

EUGENE ANTHONY LINDER,

*Petitioner,*

vs.

BILL DONAT, *et al.*,

*Respondents.*

3:07-cv-00425-HDM-RAM

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court on petitioner's motion (#47) for reconsideration. While petitioner invokes Rule 60 of the Federal Rules of Civil Procedure, the motion was filed within the 28-day period for seeking relief under Rule 59. The Court accordingly reviews the motion under Rule 59.

The Court denied the petition in an order and judgment entered on June 15, 2010. The Court denied the petition on the merits as to Grounds 1 and 2 and on the basis of procedural default as to Ground 3. The Court granted a certificate of appealability (COA) as to Grounds 1 and 2(c) but denied a COA as to the remaining claims.

Petitioner filed a timely notice of appeal, and the matter has been docketed in the Court of Appeals. See #46. The certificate of service on the present motion reflects that the motion was mailed for filing on or about July 9, 2010, which is within the 28-day period in Rule 59 for seeking relief pursuant to that rule.

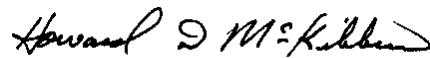
Petitioner seeks reconsideration of the Court's denial of Ground 1 on the merits. The motion rehashes arguments or variations of arguments that the Court considered either

1 explicitly or implicitly in its prior order. The Court remains unpersuaded by petitioner's  
2 arguments. The motion will be denied, for the reasons previously assigned in the order of  
3 dismissal.

4 IT THEREFORE IS ORDERED that petitioner's motion (#47) for reconsideration is  
5 DENIED.

6 The Clerk of Court shall forward a copy of this order to the Court of Appeals via either  
7 a supplemental transmittal or a notice of electronic filing, as per the Clerk's current practice  
8 in this regard, in connection with that court's No. 10-16407.

9 DATED: July 19, 2010.

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HOWARD D. MCKIBBEN  
United States District Judge  
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